

BEFORE THE BOARD OF OIL, GAS AND MINING

DEPARTMENT OF NATURAL RESOURCES

STATE OF UTAH

**FILED**

AUG 30 2016

SECRETARY, BOARD OF  
OIL, GAS & MINING

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| <p>IN THE MATTER OF THE REQUEST FOR AGENCY ACTION OF AXIA ENERGY II, LLC. FOR AN ORDER POOLING ALL INTERESTS, INCLUDING THE COMPUSORY POOLING OF CERTAIN NON-CONSENTING OR UNLOCATABLE OWNERS, IN TWO 1,280-ACRE (OR SUBSTANTIAL EQUIVALENT) DRILLING UNITS ESTABLISHED BY THE BOARD'S ORDER IN CAUSE NO. 139-138 IN SECTIONS 29 AND 32, AND 28 AND 33, TOWNSHIP 2 SOUTH, RANGE 1 WEST, USM, DUCHESNE COUNTY, UTAH.</p> | <p><b>SECOND <i>EX PARTE</i> MOTION TO AMEND PARTIES RECEIVING SERVICE BY PUBLICATION AND AUTHORIZING PUBLICATION OF REVISED NOTICE</b></p> <p>Docket No. 2016-017</p> <p>Cause No. 139-139</p> |
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Axia Energy II, LLC ("Axia"), by and through its undersigned attorneys, and pursuant to Utah Administrative Code ("U.A.C.") R641-105-300 and R641-106-230, hereby moves the Board of Oil, Gas and Mining (the "Board") for an order authorizing Axia to add the herein identified parties to the Notice of Opportunity to Lease or Participate in Oil and Gas Well(s) and of Filing of Request for Agency Action and Hearing Thereon ("Notice"), which the Board approved by that certain Order dated August 17, 2016, and which the Board amended by that certain Order dated August 29, 2016. Specifically, Axia seeks leave to modify the Notice to add the following interested parties:

Laura Jane Layton

Ali Behunin

Ryan C. Forgy

Derek Behunin

Wyatt Energy, LLC

(the "Second Additional Unlocatable Owners"). Additionally, Axia requests the Board authorize publication of the revised Notice, to include these Second Additional Unlocatable Owners.

Good cause exists to grant this motion because the Second Additional Unlocatable Owners have only recently become unlocatable. The above-identified individuals or entity were mailed the Notice of Request for Agency Action by certified mail and as of the filing of this motion, either the envelopes have been returned, unopened and undeliverable, or the return receipts have not been returned. Specifically:

- The envelopes for Laura Jane Layton and Ali Behunin were returned to Axia's counsel undelivered;
- According to the on-line records of the USPS, as of the filing of this motion, Ryan C. Forgy's envelope is undelivered but available for pickup;
- According to the on-line records of the USPS, as of the filing of this motion, Derek Behunin's envelope has not been delivered (no explanation is given) and is still in transit; and
- According to the on-line records of the USPS, Wyatt Energy, LLC's package was undeliverable.<sup>1</sup>

Accordingly, these Second Additional Unlocatable Owners now fit within the description of Unlocatable Owners as described in Axia's first *Ex Parte* Motion for Service by Publication.

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<sup>1</sup> The undersigned has identified a second possible address for Wyatt Energy LLC that is different from the prior address to which Axia successfully mailed a well proposal. The undersigned will send a Notice of Request for Agency Action to this new address, but since there is no confirmation yet that the new address is correct, in an abundance of caution, Axia includes Wyatt Energy, LLC in this motion as a Second Additional Unlocatable Owner.

Specifically, each Second Additional Unlocatable Owner – except for Wyatt Energy, LLC, who owns a working interest – owns a fee mineral interest in the drilling and spacing units that are the subject of the RAA, as identified in title opinions for the subject drilling and spacing units that were prepared by Utah-licensed attorneys, and Axia has not been able to locate any current confirmed-accurate contact information for any of them since the known address is no longer valid or personal service by mail cannot be secured.

Service of the Request is warranted to ensure that each of the above Second Additional Unlocatable Owners receives legally sufficient notice of their opportunity to lease and/or participate in the Subject Well(s), Axia's RAA, and of the Boards upcoming hearing. Axia proposes to add the Second Additional Unlocatable Owners to the Notice this Board previously approved and to publish the revised notice for two (2) consecutive weeks in the Uintah Basin Standard, a newspaper of general circulation in Duchesne County (the county in which the drilling unit at issue is located) and for two (2) consecutive weeks in the Salt Lake Tribune and Deseret News, newspapers of general state-wide circulation.

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For the Board's convenience, a proposed Order granting this Motion is attached as Exhibit A.

Dated this 30th day of August, 2016.

FABIAN VANCOTT

A handwritten signature in blue ink, appearing to be 'H. Michael Keller', written over a horizontal line.

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*Attorneys for Axia Energy II, LLC*

**CERTIFICATE OF MAILING**

I hereby certify that on this 30th day of August, 2016, I caused a true and correct copy of the foregoing Second *Ex Parte* Motion to Amend Parties Receiving Service by Publication and Authorizing Publication of Revised Notice to be served via e-mail to the following:

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4844-8463-2885, v. 1

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**EXHIBIT A TO SECOND *EX PARTE* MOTION TO AMEND PARTIES RECEIVING SERVICE BY PUBLICATION AND AUTHORIZING PUBLICATION OF REVISED NOTICE**

**PROPOSED ORDER GRANTING SECOND *EX PARTE* MOTION AMENDING PARTIES RECEIVING SERVICE BY PUBLICATION**

Docket No. 2016-017

Cause No. 139-139

The Board of Oil, Gas and Mining (the "Board"), having fully considered Axia Energy II, L.L.C.'s Second *Ex Parte* Motion to Amend Parties Receiving Service by Publication and Authorizing Publication of Revised Notice (the "Motion") filed on August 30, 2016, for good cause showing, the Board orders as follows:

1. The Motion is **GRANTED**.
2. Axia may revise and update the parties to whom the Notice is directed to include the following: (1) Laura Jane Layton; (2) Ali Behunin; (3) Ryan C. Forgy; (4) Derek Behunin; and (5) Wyatt Energy, LLC.
3. The revised Notice shall be published by Axia as follows:

- (a) Commencing August 31, 2016, or as soon thereafter as is practicable, for two (2) consecutive weeks in the Salt Lake Tribune and Deseret News; and
- (b) Commencing September 6, 2016, or as soon thereafter as is practicable, for two (2) consecutive weeks in the Uintah basin Standard.

4. All other substantive provisions of the Notice shall be unchanged.

For all purposes, the Chairman's signature on a faxed copy of this Order shall be deemed the equivalent of a signed original.

Dated this \_\_\_\_ day of August, 2016.

**STATE OF UTAH BOARD OF OIL, GAS AND  
MINING**

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Ruland J. Gill, Jr., Chairman